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## An Analysis of Insider Trading in India

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### ABSTRACT

*Insider trading basically denotes dealing in a company's securities on the source of secret information related to the company which is not published nor is known to the public which is called as "unpublished price sensitive information", which might be used to make profits or avoid loss. It is seen as an evil practice where the person who engages himself in such is devoid of ethical principles. Insider trading is one of the most debatable facets of securities regulation, even among the law and economics section. Most argue their protest to insider trading for the reason that it is simply inequitable. However, it is not always unethical in nature. Few studies show there are certain types of trading which have helped the organisation. This paper deals with the issues with respect to insider trading in our country India, how this concept eventually evolved and the measures been taken to regulate it.*

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### 1 INTRODUCTION

Insider trading basically denotes dealing in a company's securities on the source of secret information related to the company which is not published nor is known to the public which is called as an "unpublished price sensitive information", which might be used to make profits or avoid loss, it is fairly a violation of fiduciary duties of officers of a company or connected persons as defined under "the Securities Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992, towards the shareholders."<sup>1</sup> The insider deals in shares of a corporation to form unjustifiable gains by status of his employment or any other type of connection. Thereby, portraying the underlying principle of fair and free transferability of shares not accomplished in the capital market. This is the most important reason for the formation of these regulations which is to encourage free and fair transferability of stocks in the capital market wherein the investors can do transaction in the securities in an unperturbed manner.

**Henry G. Manne** defines 'Insider Trading' as: "Insider trading generally refers to the practice of corporate agents buying or selling their corporation securities without disclosing to the public significant information which is known by them but which has not affected the price of the security."<sup>2</sup>

The intent of insider trading laws as well as regulations is to guarantee that no one would gain by trading on 'insider' nor 'unpublished' information that is not available to all market participants. The ultimate objective is to create a level playing field by producing information accessible to all market participants. The enforcement of these laws increases market liquidity furthermore decreases the cost of equity. This has been established to be the objective in the developed countries where strict insider trading regulations are adopted. Insider trading laws exist on the well-built basis of equity and efficiency.

These laws encourage the free division of securities related information which helps to make sure more efficient pricing of stocks. However, when insider trading regulations put off insiders from buying or selling based on inside information that only marks in stock being priced in a manner consistent with all available information.

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### 2 WHY TO CONTROL INSIDER TRADING

Insider trading unquestionably undermines investor confidence in the fairness along with integrity of the capital markets. The manipulation of market by using Insider trading generally at times leads to a great loss to a company, which further might lead to loss for investors or great profit only for the insiders. It steals away the opportunity of earning profit from an investor. It is essential on the part of the company directors to protect the interest along with protecting the reputation of the company. Once a company faces a difficulty of Insider Trading, investors tend to lose confidence in the company and might then stop investing in the company in addition to start selling all the stocks in the company. "It is been said and is expected and required on

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<sup>1</sup> <http://www.legalserviceindia.com/article/1199-InsiderTrading.html>

<sup>2</sup> Henry G. Manne, "Definition of Insider Trading" in Fred S. McChesney (ed.) *The Collected Works of Henry G. Manne* 364 (2009).

the part of the market regulator to maintain confidence in the stock exchange operations. It is very important to maintain Public confidence in the financial system as a whole. Indian Financial Market is still very low in the domestic investment rate. To have a healthy economy, a proper financial system is a must and for that, confidence in the market is of utmost importance.”<sup>3</sup>

### 3 HOW INSIDER TRADING REGULATION IN INDIA EVOLVED

In late 1970's, it was then when insider trading for the first time was officially identified as an undesirable practice. A chain of committee gave reports which recommended its strict regulation; as a result, a regulatory authority was built in 1992.

- A. **“Sachar Committee (1979)”**: The High-powered Expert Committee with respect to Companies and Monopolies and Restrictive Trade Practices Act (MRTP) (Sachar Committee) was constituted in June 1977 for reviewing of the Companies Act, 1956 and the MRTP Act, 1969. In 1979, the Sachar Committee submitted its report. The Committee made two-fold recommendations - one relating to full disclosure of transactions by those who have made price sensitive information and another, prohibition of transactions by such persons during certain specified period unless there are exceptional circumstances. Among the insiders, a company director, statutory auditor, accountant, tax and management consultant or advisor and legal advisor etc. could indulge in such activities.  
All public companies are required to maintain a register disclosing dealings in shares of the company by the above persons including dealings by their spouses and dependent children and also of those individuals who are in full time employment of the company as well as drawing a salary of three thousand rupees or more per month.
- B. **“Patel Committee (1987)”**: The Government of India made a High-powered Committee (Patel Committee) in May 1984, to make a comprehensive review of the functioning of the stock exchanges and to make recommendations in the matter. The committee's final report took a serious view of the absence of specific legislation in India curbing misuse of insider information and recommended strict penalties for the offence of insider trading. In its report it has been found that insider trading is rampant in stock exchanges in the country and is one of the principal cause of excessive speculative activity. Even persons employed in the office of the solicitors, auditors, financial consultants and financial institutions in possession of undisclosed price sensitive information are reported to be indulging in such activity.
- C. **“Abid Hussein Committee (1989)”**: The Working Group with respect to the ‘Development of the Capital Market’ which was popularly known as Abid Hussein Committee was formed in 1989. The group recommended that the insider trading should be made as a major offence punishable with civil penalties as well as criminal proceedings. The problems of insider trading and secret take-over bids could be tackled largely by appropriate regulatory measures. It was suggested that the SEBI might be asked to formulate the necessary legislation and be equipped with the authority to enforce the provisions.

### 4 REGULATIONS IN INDIA REGARDING INSIDER TRADING

The regulatory body that assures that proper corporate governance in India is the Securities and Exchange Board of India. This body keeps a watch for any abnormal transaction with respect to purchase or sale of listed securities. The TISCO Case of 1992, lined the way for formation of the Securities and Exchange Board of India in the year 1992.

The Court opined that there was no insider trading as there is no evidence for such allegation. There was a lack of regulations and procedures the culprits could not be made liable. This eventually led to the constitution of Securities Exchange Board of India (Insider trading) Regulations, 1992. Eventually after the Regulation of 1992, a major change was made to Insider Trading laws in the year 2015 in our country. Hence the “SEBI (Prohibition of Insider Trading) regulation, 2015, was enacted to resolve the flaws in the earlier regulation as the unlawful transaction were not covered with thin ambit of the regulation”. Another, important amendment has been passed out in the year 2019 where efforts have been made to cover direct as well as cover the indirect transactions.

The Companies Act of 2013 also had a provision to deal and confine Insider Trading. Later, this section was omitted as section 458 of the Companies Act and gave the power to SEBI to carry out trials against the accused individuals. Thus “there was confusion that the accused should be tried under the Companies Act or the SEBI regulations so in 2017 the section 195 was omitted by a notice. Hence, the current regulations regarding Insider Trading in India are the SEBI (Prohibition of Insider Trading) Regulations, 2015 and Section 12A (Prohibition of Insider trading) and 15G (Penalty for Insider Trading) of the SEBI Act.”<sup>4</sup>

<sup>3</sup> <http://www.riskpro.in/services/prevention-insider-trading-training>

<sup>4</sup> <http://www.legalservicesindia.com/article/2567/Insider-Trading-laws-in-India-in-comparison-with-the-laws-in-US-and-UK.html#:~:text=In%20India%2C%20SEBI%20Act%20and,or%20with%20fine%20or%20both.>

## 5 WHAT SEBI LOOKS FOR?

For identifying any insider trade, SEBI initially seeks to find out who is an insider, which naturally key for managerial personnel of a listed company, “company board, auditors, personnel handling financial information or sensitive information, promoters and persons connected to promoters”<sup>5</sup>. Even close relatives of these officials are carefully analysed and checked whether persons are connected to insiders or not and thus can have right to use to information.

The second significant aspect is the clear understanding of what leads to as unpublished price sensitive information. This could be anything starting from company acquiring a major contract to good financial information.

Finally, it looks into the matter and takes into consideration that who traded on the basis of the information.

## 6 THE INSIDER TRADING LAWS AMENDMENTS

A lot of amendments have been done in “SEBI Prohibition of Insider Trading regulation Act” which came into existence in the year 1992. This Act came into effect in the official gazette from the 100th day from the date of its publication. This act has been amended thrice till date. The latest amendment came into effect on 17th September 2019. The latest amendment made many unexpected changes in the previous one. These are stated below:

“Between *Chapter III* and *Chapter IV*, a new chapter IIIA is inserted according to the recent amendment. This chapter contains the *Sections 7A-7M*. These sections include many new definitions:

1. Inclusion of the new term ‘*Informant*’ which is given under *Section 7A (b)* of the amended act 2019. According to this section, an informant can be any person who informs the SEBI regarding disclosure of any secret information of the company or has a belief that such insider trading is about to occur.
2. It should be necessary that the informant voluntarily submits this information without any pressure, coercion, or any relation to central or public authority.
3. There is a new word that is included under the new amended act which is ‘*Original Information*’ given in *Section 7A (h)* of the amended act. Original information means any independent knowledge or information which is not known to the board which is not frivolous or irrelevant or which is related to the violation of the insider trading laws.
4. The person who gives original information to SEBI regarding insider trading in a company need not be disclosed and his identity is protected or should be kept confidential by the SEBI under the Right to Information Act, 2005 except in some exceptional cases. No one can compel that person to reveal his identity.
5. One important thing is to be noticed that information provided by any informant should not be irrelevant, frivolous, or vexatious. The informant must adhere to all the guidelines and litmus tests laid down by SEBI. If any mischievous activity is found by SEBI then the informant would be held liable and has to pay the penalty.
6. In the recent amendments, the informant has legal remedies in case the employer of the company threatens or coerces the informant for revealing original information to the SEBI. If such victimization, blackmailing is found by the SEBI then the employer will be held liable or will be suspended, penalized, or also will be criminally liable. Any act or agreement which prohibits any informant or restricts him to give original information in the SEBI regarding insider trading is void and also that act is prohibited by the SEBI.
7. The informant is entitled to get a reward not exceeding Rs. 10 lakhs rupees for telling and giving the original information to SEBI. It is given in *Section 7D* of the Act. It is up to the discretion power of the SEBI to decide the amount of the reward on the recovery of such information by the informant.”<sup>6</sup>

In the most recent amendment, SEBI has now brought a separate, ‘*Informant Mechanism*’ in its prevention of insider trading regulations. The SEBI has now introduced stringent regulations, guidelines as well as code of conduct to restrain the practice of insider trading which has developed into a menace now. It is the full accountability of the SEBI to protect the rights of its investors along with that of shareholders.

It is the responsibility and duty of SEBI to detect the ongoing insider trading which has been carried on in a company and to initiate strict legal action as soon as possible to protect the rights and interests of the shareholders. But, getting direct proof or evidence of insider trading and connecting links is a mammoth task and thus it requires months to initiate legal proceedings by the SEBI.

So, as per the new SEBI’s Prohibition with respect to insider trading regulations, an informant needs to give in Voluntary Information Disclosure Form (VIDF) concerning any unpublished information or about any insider trading that has been going on in a company. It should be obligatory for the

<sup>5</sup><https://www.livemint.com/market/stock-market-news/how-india-cracks-down-on-insider-trading-11580199120367.html>

<sup>6</sup><https://blog.ipleaders.in/changes-insider-trading-laws-india/#:~:text=It%20prohibits%20any%20type%20of,and%20communication%20of%20insider%20trading.>

informant to reveal all the original information as well as needs to take the undertaking that he is not associated with either SEBI or is any employer of SEBI directly or indirectly. The informant can be anonymous excluding in certain cases such as if he does not abide by the guidelines plus regulations laid down by the SEBI.

The SEBI has also formed the Office of Informant Protection (OIP) which is an office for informant protection that takes into consideration all the original information and then provides a reward for the informant. It states hotlines for communicating with the informants. SEBI can also contribute to the original information provided by the informant to other foreign markets as well as with the associations too without revealing the individuality of the informant. Thus, SEBI plays a significant role in curbing insider trading along with keeping it to limit stringent norms, regulations, and guidelines.

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## 7 JUDGMENTS ON INSIDER TRADING

The USA is the first country to set up the enactment of the securities act 1933, it is after the shocking crash of the stock market in 1929. After the securities act of 1933, a succeeding act was passed by the name securities act, 1934. It was the backbone for every law as well as regulation about insider trading including any securities fraud. Afterwards in the year 1961, the USA became the first country to enforcing a law for banning the practice of insider trading. In 1966, *SEC vs. Texas Gulf Sulphur Company*. “it was decided for the first time, that anyone who possessed the inside information or non-public information then either he has to make it public or disclose it to all the interested parties or can decide not to trade. By doing this no one will be getting wrongly benefited”. The case of the *United States vs. Newman*<sup>7</sup> “made insider trading unlawful for the first time.”<sup>8</sup>

The case of *Hindustan Lever limited (HIL) Vs SEBI* “was one of the earliest cases where SEBI acted against Insider trading, in this particular case around 8 lakhs shares were bought by HIL from the Unit Trust of India, and after some weeks a merger was announced between HIL and the other subsidiary. SEBI approved out an investigation and it was held that it was a case of Insider Information, an appeal was made to the Appellate authority furthermore they confirmed the order of the SEBI rejecting the arguments given by HIL denying having the information or knowledge for the same. After this case SEBI made an amendment to the regulations as well as added and defined the word ‘unpublished’. This was the source for the definition of the term ‘Unpublished Price Sensitive Information in India’<sup>9</sup>

In another case of *Reliance Industries limited (RIL) Vs SEBI*, “RIL had a stake of around 5 % in the L&T company and further there were two nominees for the company Mr. Mukesh and Anil Ambani. Further, RIL went on purchasing stake in L&T and almost got around 10 %. RIL further made a sale of these shares above the market price to Grasim Industries as a result of which the two nominees were removed and RIL was prohibited from further trading in shares of L&T. SEBI agreed to look out for an investigation and a case was filed against RIL in which they were held to be at fault of Insider trading. In an appeal the Appellate Tribunal reversed the order of SEBI stating that the information was not passed by the nominees of L&T and the same had no relation in communicating or passing of the information. L&T was not even aware of the deal and there was no evidence to prove the same. Therefore, RIL was not made liable for Insider trading.”<sup>10</sup>

Further, “recently Rakesh Jhunjhunwala was probed by the SEBI in January 2020 on account of alleged insider trading. These allegations were based on the trades made by him and his family in the IT education firm Aptech. Aptech is the only firm in Jhunjhunwala’s portfolio in which he owns managerial control. SEBI also questioned Jhunjhunwalas wife, brother, and mother in law. This, however, is not the first time that Rakesh Jhunjhunwala has been embroiled in insider trading controversy. In 2018 too he was questioned over suspicion of insider trading in the shares of the Geometric. Rakesh Jhunjhunwala settled the case via a Consent order mechanism.”<sup>11</sup>

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## 8 EXCEPTIONS TO INSIDER TRADING

The difference between legally permitted trading and illegal insider trading must be cautiously understood. It is but expected for an Insider to know some inside information of a company which is expected by them to keep as a secret of their job. It would be infringement of human rights in addition it would defy the logic freely tradable securities, if Insiders are not allowed to trade for themselves. That would be irrational. It would be unreasonable to restrict promoters of a company from dealing in their securities. Thus the restraint on the corporate insider is directly or indirectly using the price sensitive information that they hold to the leaving out of the other shareholders to arrive at trading decisions. “There is complete no constraint on insiders in trading in securities of the company if they do not hold any price sensitive information that the public is not previously aware of. During the short while promoters and insiders can use the information to their advantage by guessing market reaction to the news or information”.<sup>12</sup>

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## 9 PROBLEMS REGARDING INSIDER TRADING IN INDIA

There have been many opinions about the legality and the illegality with the subject of Insider Trading. But the view is that it stands against the

<sup>7</sup> United States vs. Newman 1983

<sup>8</sup> SEC v. Texas Gulf Sulphur Co. 1967

<sup>9</sup> Hindustan Lever limited (HIL) Vs SEBI, (1998) 18 SCL 311 MOF

<sup>10</sup> Reliance Industries limited (RIL) Vs SEBI, 2004 55 SCL 81 SAT

<sup>11</sup> <https://tradebrains.in/tag/famous-insider-trading-cases-in-india/>

<sup>12</sup> “INSIDER TRADING IN INDIA”, available at: [http://www.riskpro.in/download/insider\\_wp.pdf](http://www.riskpro.in/download/insider_wp.pdf)

integrity of the market. This is for the reason that it gives an unjust advantage to the people having access to such information as there is no risk or losses that such people go through. Also, it causes the investors to lose their money as the people having such sensitive information carry out certain malpractices of manipulating as well as spreading rumours which leads to modify the mind of many investors at the same time as trading in the stock markets.

This additionally leads to loss of confidence of investors to invest in markets which are a very big worry for the economy and it also affects foreign investments. Therefore such type of practice of is very injurious for the markets and there needs to be a regulating authority to keep a check and prevent such malpractices.<sup>13</sup>

Also, one more problem that is faced by SEBI is proving the cases of Insider trading as there is not always enough evidence to prove that a particular trade was a consequence of Insider Trading. As a consequence of this the investors lose their money furthermore the markets suffer the loss.

Another difficulty is that "although there are provisions for Criminal Liability in the SEBI regulations but implementing them is difficult. There is a need for Mens Rea to hold a person liable under Criminal law. It becomes very difficult for SEBI to prove the case of Mens Rea and so the accused often escape criminal liability and are held liable under civil law. Therefore, there is no fear in the markets and so this sensitive information is freely circulated".<sup>14</sup>

Finally, the Indian judiciary system takes many years to pass a judgment as well as the opportunity of appeals gives the offenders enough time to influence the evidence and escape such liability under the SEBI regulations.

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## 10 REMEDY FOR INVESTORS

In insider trading, when in the cases where they're found at fault, they're made to pay a sum of cash which at times is less than the amount of profits that they may have in reality made or they have to go through a prohibition of trading in securities for a period of time specified within the order. The end outcome is that the insider is left happy with the profits. In order to provide the recompense to the investors, the primary step would be to find out the number of distressed investors and furthermore to calculate how many losses they may have suffered reasonably because of the specific act.

It is therefore advised that "after convicting an individual of insider trading and ordering him to pay the penalty in consequence of his indictment, a public notice to be issued for a definite amount of time, asking the aggrieved investors to demand compensation for the losses that they could have suffered because of a biased trading activity by the insider. The compensation would be paid out of the amount recovered from the person indicted. The investors not acknowledging to such a notice would merely lose their right to ask for reimbursement. After the number of investors has been determined, SEBI would need to calculate and decide what proportion of cash every investor will separately need to get. Calculating this amount can prove to be a tedious task however very helpful howsoever."<sup>15</sup>

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## 11 ARGUMENTS FOR LEGALIZING INSIDER TRADING

Some economists as well as legal scholars "such as Henry Manne, Milton Friedman, Thomas Sowell, Daniel Fischel, and Frank H. Easterbrook" disagree with the view that law made with respect to insider trading making it illegal ought to be revoked. They state that insider trading based on material non public information payback investors may be by more quickly introducing new information into the market.

Friedman, the Economist winning laureate of the Nobel Memorial Prize said: "You want more insider trading, not less. You want to give the people most likely to have knowledge about deficiencies of the company an incentive to make the public aware of that. Friedman did not believe that the trader should be required to make his trade known to the public, because the buying or selling pressure itself is information for the market. Other critics dispute that insider trading is a victimless act: a willing buyer plus a willing seller agree to trade property which the seller rightfully owns, with no prior contract (according to this view) having been made between the parties to refrain from trading if there is asymmetric information. The Atlantic has described the procedure as arguably the closest thing that modern finance has to a victimless crime".

Advocates for legalization at times make free speech arguments. Penalty for communicating about a development significant to the upcoming day's stock price may seem to be an act of suppression. If an proprietary information is been conveyed and it has already been contracted to not to disclose such information, the person now has no right left to expose the information than he might would tell others about that confidential information which can be with respect to new design, product, formula or any password.

There are very limited laws against "insider trading" in the commodities markets if, for no other reason than that the concept of an "insider" is not immediately analogous to commodities themselves (corn, wheat, steel, etc.). However, analogous activities such as front running are illegal under US commodity and futures trading laws. For example, "a commodity broker can be charged with fraud by receiving a large purchase order from a client (one likely to affect the price of that commodity) and then purchasing that commodity before executing the client's order to benefit from the anticipated price increase"<sup>16</sup>.

<sup>13</sup> <http://www.legalserviceindia.com/legal/article-4407-insider-trading-in-india.html>

<sup>14</sup> [www.livemint.com/Opinion/qUBUyk9cbxSftLarLAuvK/Eliminating-the-menace-of-insider-trading.html](http://www.livemint.com/Opinion/qUBUyk9cbxSftLarLAuvK/Eliminating-the-menace-of-insider-trading.html).

<sup>15</sup> <http://www.legalserviceindia.com/article/1199-Insider-Trading.html#:~:text=The%20insider%20is%20more%20often,period%20stipulated%20in%20the%20order.>

<sup>16</sup> <http://www.legalservicesindia.com/article/1421/Insider-trading-laws-in-India.html#:~:text=For%20example%2C%20a%20commodity%20broker,from%20the%20anticipated%20price%20increase.>

## 12 CONCLUSION

Insider trading is one of the most debatable facets of securities regulation, even among the law and economics section. Insider trading is deceitful for various reasons. Although there are many other rival avenues for market ineffectiveness. However, most argue their protest to insider trading for the reason that it is simply inequitable, maybe the greatest outcome is that insider trading makes the market less efficient. The mysterious nature of insider trading makes detection complicated, conviction more complicated, and the huge sums involved not easy to deter.

The core of securities system is the execution of the purpose that all investors should have equivalent access to the rewards of sharing in securities transactions. "In other words all members of the investing public should be subject to identical market risks. Inequities based upon unequal access to knowledge should not be shrugged off as inevitable in our way of life. It is therefore important for there to be markets free from all types of fraud and in particular insider trading which disenchant the common investor from the workings of the markets as if he is being invited to play a game of crap with loaded dice."<sup>17</sup>

As per the 2002 new regulation, the listed companies plus other entities are now compulsory to frame internal policies along with guidelines to prevent insider trading by directors, employees, partners, etc. In the recent past, it has been observed that insider trading legislation is fruitless and hard to enforce and has slight impact on securities markets. It can be made evidentiary from the low enforcement rates as well as few convictions against insiders have been cited. The significance of policing insider trading has also believed international significance as overseas regulators attempt to boost the confidence of domestic investors and attract the international investment community. Special Courts could be set up for faster along with efficacious disposal of cases.

## 13 SOLUTIONS SUGGESTED

The most considerable way to deal with this issue of Insider Trading can be by the identification of problem and which further is supplemented with the understanding of suggestions to avoid such instances. In order to check the problems posed by insider trading in India, SEBI may consider these suggestions:

1. **"Education / Training / Awareness"** – "Spreading awareness against the practice of insider trading and its ill effects among the general people can go a long way in curbing this abuse. In order to make possible this, SEBI may circulate an insider trading manual (booklet) with its distribution of it to the significant section of the public either itself or else through aid of various NGOs, stock exchange, companies or intermediaries, etc. and also frequently conduct programs / discussions / seminars to produce awareness in the investors who get caught in such abuses about its harmful effect along with how to protect themselves against such harmful activities. The ignorance is not only on the level of individuals but many organizations for which not only SEBI, but also the Central Government, directors and employees of every organization and company are to think of ways of educating people about this issue and its impacts. Moreover the company managements including professionals associated with companies must create awareness amongst the insiders of the company about the relevant laws and requirements so as to ensure due compliance with it."<sup>18</sup>
2. **"Corporate Governance"** - if we look at the root level the cooperation from the companies is also required these days in order to ensure effective implementation of insider trading laws. The companies must practice self-regulation and take prophylactic action because corporate governance is one of the pillars on which effective enforcement against insider trading stands. Constant vigilance along with strict reporting and monitoring by companies over their directors also of officers are the call for the day. Each company must adopt watertight insider trading code in its governance framework as well as ensure its strictest adherence as their first line of defence to address insider trading furthermore the compliance officer should monitor the personal trading of employees in accordance with best practices and industry regulations.
3. **"Insider Trading and Multi Jurisdiction"**– recently there is a need to extend the reach of insider trading regulation beyond the national territories in India by amending the law in order to efficiently guard the domestic market as well as investors from the results of insider trading. In USA, this need has been fulfilled by "Section 27 (b) of the Securities Exchange Act, 1934 which confers extra territorial jurisdiction on the regulator". Such an extra territorial jurisdiction to SEBI will help in dealing with insiders who try to dodge the law by committing the act from beyond the territory of India. A different aspect of this problem is ensuring successful investigation along with prosecutions of such cases with transnational features by making sure the international cooperation between India and various other jurisdictions. Though India has entered into MoU and MLATs with other countries, but it requires more attention from India on this area by entering into more arrangements with other countries.
4. **"Order Of Consent"**- It is recommended to do away with the usage of consent mechanism in cases of insider trading so as to ensure that adequate deterrent effect of punishment sustains. Such an approach other than restricting the development of judicial jurisprudence on insider trading also is no disincentive for the insider as it makes them assume that insider trading involves low risks.
5. **"Judicial"**– The law in US has been able to deal with insider trading incidences by a strong relationship between two institutions i.e. their

<sup>17</sup> .Sandeep Parekh, "Prevention of Insider Trading and Corporate Good Governance", available at:<http://www.iimahd.ernet.in/publications/data/2003-01-03SandeepParekh.pdf>

<sup>18</sup> Roopanshi Sachar & Dr. M. Afzal Wani, "REGULATION OF INSIDER TRADING IN INDIA: DISSECTING THE DIFFICULTIES AND SOLUTIONS AHEAD" 2 (JCIL) 5 Issue 11(2016)

legislature and judiciary, both exhibiting extra ordinary enthusiasm in addressing the various challenging aspects in regulating the problem of insider trading. Our judiciary system should also look in to the field of evolving jurisprudence with respect to insider trading by punishing the violators of the pernicious actions. The very trend in India has been that the courts and the appellate body has been interpreting the law in a way that affords a benefit of doubt to the alleged violators. The approach of Indian judiciary towards insider trading should be matched with USA where the judges contribute by sustaining insider trading convictions based on circumstantial evidence and pursuant to the federal sentencing guidelines, impose lengthy periods of incarceration.

6. **Media Hype-** Hying up and advertising cases relating to insider trading are suggested as one of the key methods to influence the insiders and others to avoid committing insider trading. It should be in SEBI's portfolio to build up successful insider trading prosecutions in the media in our country.

The Indian judicial system and the law making authorities have done reasonable job so far in this regard. Several amendments and several interpretations have been done by the respective authorities. The Judicial approach towards the problem of insider trading has been very positive and well amended also. The only concern is the fast adjudication of the matters by expert authorities and awarding of strict punishment to the culprits so that a message can go to every person who indulges or tend to indulge in malpractice of insider trading or any malpractice which harms the common shareholders.